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May 4, 2023

**VIA ECF**

The Honorable John F. Murphy  
United States District Court for the Eastern District of Pennsylvania  
601 Market Street, Room 3809  
Philadelphia, PA 19106

**Re: Kitchens v. National Board of Medical Examiners, No. 2:22-cv-03301**

Dear Judge Murphy:

In accordance with the Court's May 3, 2023 Order (Dkt. 50) we are writing in response to Dr. Kitchens's letter motion (Dkt. 49) for leave to offer another proposed expert witness at trial.

Dr. Kitchens presumably sought leave of Court to allow a new proposed expert witness at trial because he did not disclose this witness to NBME by the April 7, 2023 deadline for the disclosure of affirmative experts and the subjects of their testimony. (Dkt. 34 ¶ 3; Dkt. 33 ¶ 6(C)) And to clarify certain points made in Dr. Kitchens's letter, the parties did not agree to forgo expert depositions, and Dr. Kitchens did not provide NBME with any notice of this new expert other than a brief email immediately preceding his May 3 letter to the Court. NBME knows nothing about this individual or her intended testimony apart from the limited information presented in Dr. Kitchens's letter (which was repeated in his email to NBME).

Nevertheless, NBME is not objecting to Dr. Kitchens's late disclosure of this additional proposed expert testimony. As with all of Dr. Kitchens's disclosed experts, NBME reserves all objections based on their purported expert qualifications, the relevancy of any testimony they may intend to offer, and on any other evidentiary bases, until the time of trial.

Respectfully submitted,

/s/ Caroline M. Mew

Caroline M. Mew  
Counsel for NBME

cc: Marcus Kitchens, Jr. (via email)  
Jared Bayer (via ECF)